

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 08, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMY KATHERINE RIGGS,

Defendant.

No. 2:23-CR-00045-RMP-1

ORDER FOLLOWING
DETENTION HEARING
ON INDICTMENT

MOTION GRANTED
(ECF No. 9)

On May 4, 2023, the Court held a detention hearing for Defendant AMY KATHERINE RIGGS. Defendant appeared in custody represented by court-appointed Attorney Matthew Duggan. Assistant U.S. Attorney Caitlin Baunsgard represented the United States. U.S. Probation Officer Patrick Dennis was also present.

I. DETENTION HEARING

The United States moved for Defendant's detention pursuant to 18 U.S.C. § 3142(f)(1)(C). **ECF No. 9 at 2**. The Government has invoked a rebuttable presumption of detention pursuant to 18 U.S.C. § 3142(e)(3)(A). *Id.* at 3.

The Government made factual proffers and argued there are no conditions the Court could impose that would reasonably assure Defendant's appearance as required and/or the safety of any other person and the community. The Government proffered that based on text messages, statements from cooperating

1 defendants/individuals, video evidence, and other witness statements, Defendant is
2 directly associated with a fugitive leader/organizer of a Drug Trafficking
3 Organization (“DTO”) operating from Mexico who became a fugitive while under
4 Indictment in the Eastern District of Washington. *See* ECF No. 139, Case No.
5 2:15-CR-138-TOR-1. The Government further proffered that Defendant is a
6 trusted and entrenched member of the DTO and Defendant has been in regular
7 communication with the fugitive leader of the DTO.

8 The United States also proffered that during the timeframe of the offense
9 alleged against Defendant in the Indictment, Defendant was tasked with organizing
10 the distribution of controlled substances on behalf of the DTO and on one occasion
11 with recovering controlled substances believed to be stolen from the DTO. The
12 Government proffered that with respect to efforts to recover the alleged stolen
13 controlled substances, Defendant found others to assist in the recovery of the
14 controlled substances and Defendant’s vehicle was recorded on video with at least
15 one muzzle flash observed coming from a firearm within the vehicle during an
16 attempt to recover the stolen controlled substances. The Government further
17 proffered that Defendant’s cellular phone was tracked to the vicinity of the vehicle
18 at the same time as the preceding events, along with the cellular phones of one or
19 more individuals Defendant had allegedly recruited to assist her, all suggesting
20 Defendant was at least present during the incident. The Government also proffered
21 that during the course of the investigation, at least one firearm was seized from a
22 room occupied by Defendant along with quantities of controlled substances.

24 Defendant, through counsel, proffered that she has no criminal history, has
25 the support of her family, and has a place to reside. Defendant also directly
26 addressed the Court on multiple occasions, despite reminders from the Court
27 concerning her right to silence, and disputed the Government’s proffer, asserting
28 that the information proffered by the Government was merely “hearsay” evidence.

1 The Court has reviewed and considered the United States' Motion for
2 Detention, **ECF No. 9**, the Pretrial Services Report, ECF No. 18, and the
3 arguments and proffers of counsel.

4 **II. APPLICATION OF THE BAIL REFORM ACT**

5 **A. The Bail Reform Act Generally.**

6 The Bail Reform Act, 18 U.S.C. §§ 3141–3150, 3156, governs detention
7 pending trial and provides that a defendant shall be released unless the Court “finds
8 that no condition or combination of conditions will reasonably assure the
9 appearance of the person as required and the safety of any other person and the
10 community.” 18 U.S.C. § 3142(e); *see also United States v. Gebro*, 948 F.2d
11 1118, 1121 (9th Cir. 1991); *United States v. Motamedi*, 767 F.2d 1403, 1405 (9th
12 Cir. 1985). Absent a statutory presumption of detention, the burden of proof to
13 support a motion for detention rests with the United States, which must establish
14 by a preponderance of the evidence that no release condition or combination of
15 conditions are sufficient to reasonably assure a defendant's risk future appearance
16 and/or by clear and convincing evidence that no release condition or combination
17 of conditions are sufficient to reasonably assure the safety of any other person and
18 the community. *Motamedi*, 767 F.2d at 1406–07. Here it is undisputed that the
19 United States may seek Defendant's detention because this case involves a
20 specified crime under the Controlled Substances Act for which the maximum
21 penalty is imprisonment of ten years or more. *See* ECF Nos. 1, 3; 18 U.S.C.
22 § 3142(f)(1)(C).
23

24 To guide the Court's determination as to whether there are conditions of
25 release that will reasonably assure Defendant's appearance and the safety of the
26 community, the Court has considered: 1) the nature and circumstances of the
27 offense charged; 2) the weight of the evidence against Defendant; 3) Defendant's
28 history and characteristics, including character, physical and mental condition,

1 family ties, employment, financial resources, length of residence in the
2 community, community ties, past conduct and history relating to alcohol and drug
3 abuse, and also criminal history, record concerning appearance at court
4 proceedings, and whether Defendant was under supervision at the time of the
5 alleged offense; and, 4) the nature and seriousness of the danger to the community
6 posed by Defendant's release. *See* 18 U.S.C. § 3142(g).

7 **B. Rebuttable Presumption of Detention.**

8 Here the United States also invoked a rebuttable presumption of detention
9 pursuant to 18 U.S.C. § 3142(e)(3)(A) as this case involves an offense under the
10 Controlled Substances Act for which the maximum penalty is imprisonment of ten
11 years or more. *See* ECF No. 9 at 2. In a presumption case, the Court presumes
12 "that no condition or combination of conditions will reasonably assure the
13 appearance of the person as required and the safety of the community" if the
14 presumption applies. 18 U.S.C. § 3142(e)(3). The Court agrees that the rebuttable
15 presumption of detention applies.

16 Although the presumption of detention shifts the burden of production to
17 Defendant, the ultimate burden of persuasion on Defendant's flight risk and danger
18 to the community remains with the Government. *United States v. Hir*, 517 F.3d
19 1081, 1086 (9th Cir. 2008). When a defendant presents evidence to rebut the
20 presumption arising under 18 U.S.C. § 3142(e)(3), the presumption itself still
21 mitigates against the defendant's release, and is "to be weighed along with other
22 evidence relevant to factors listed in § 3142(g)." *Id.* (quoting *United States v.*
23 *Dominguez*, 783 F.2d 702, 707 (7th Cir. 1986)).

24 Here, Defendant proffered that she does not have a significant criminal
25 history; she is willing to abide by any conditions the Court may impose; and she
26 has family support along with a place to reside. Defendant's proffer is sufficient to
27 overcome the presumption of detention and in this case.
28

1 **C. Nature and Circumstances of the Charged Offense.**

2 The nature and circumstances of the charged offense are serious. In addition
3 to the serious charges set forth in the Indictment, the Government has proffered
4 that Defendant is in direct contact with a federal fugitive who is continuing to
5 direct the operations of a DTO from Mexico; Defendant is a trusted member of the
6 DTO; Defendant has organized and/or participated in acts of violence on behalf of
7 the DTO; and Defendant has possessed firearms along with controlled substances
8 during the course of the offense charged in the Indictment. The Government
9 asserts its proffers are based on text messages, statements from cooperating
10 defendants/witnesses, and other evidence. Defendant has not seriously contested
11 the Government's proffers aside from asserting that the proffers are based on
12 hearsay. Despite Defendant's protests, however, "[t]he rules concerning
13 admissibility of evidence in criminal trials do not apply to the presentation and
14 consideration of information at the [detention] hearing." 18 U.S.C. § 3142(f).

15 Again, while the Bail Reform Act does not abrogate Defendant's
16 presumption of innocence and the Court presumes Defendant's innocence, the
17 nature of the allegations in the Indictment are serious and carry serious
18 consequences. Additionally, there are serious additional allegations of Defendant's
19 participation and/or instigation of violence; firearm possession by Defendant; and
20 Defendant's ongoing contact with a federal fugitive. This factor weighs in favor of
21 Defendant's detention.

22 **D. Weight of the Evidence.**

23 The Court considers the weight of the evidence as the least important factor
24 regarding detention. *See Motamedi*, 767 F.2d at 1407; *United States v. Honeyman*,
25 470 F.2d 473, 474 (9th Cir. 1972). The weight of the evidence in this case appears
26 to be substantial. The Government has proffered that its case is supported by
27 substantial evidence including cooperating defendants/witnesses, electronic
28

1 evidence, evidence derived from search warrants, and other evidence. This factor
2 weighs in favor of Defendant's detention, though it is the least important factor.

3 **E. Defendant's History and Characteristics.**

4 Defendant has no criminal history and appears to have a supportive family, a
5 place to reside, and as significant long-term ties to the Eastern District of
6 Washington. These factors are in Defendant's favor.

7 The United States, however, has proffered that Defendant's history and
8 characteristics also include significant ties to a federal fugitive operating from
9 Mexico and a willingness to engage in violence on behalf of the DTO. The
10 Government also submits that Defendant may be incentivized to utilize her
11 connections with the DTO to flee the country. Ultimately, this factor weighs in
12 favor of Defendant's detention.

13 **F. Nature and Seriousness of the Danger to the Community Posed by**
14 **Defendant's Release.**

15 Finally, the United States asserts that Defendant would pose an unacceptable
16 risk to the safety of the community if released. The Government relies on its
17 proffers discussed above concerning Defendant's firearm possession, alleged
18 participation in violence and/or organizing violence on behalf of the DTO. As set
19 forth above, the Government has proffered that Defendant was involved with at the
20 least organizing acts of violence on behalf of the DTO and potentially directly
21 involved with acts of violence on behalf of the DTO. The Government also
22 proffered that at least one firearm was seized from a location associated with
23 Defendant during the course of the investigation. Based on the facts and proffers
24 before the Court, this factor weighs in favor of Defendant's detention.

25 **III. ORDER**

26 As previously noted, the Court has reviewed and considered the United
27 States' Motion for Detention, **ECF No. 9**, the Pretrial Services Report, ECF
28

1 No. 18, and the arguments and proffers of counsel. Pursuant to 18 U.S.C. § 3142,
2 the Court has also considered: 1) the nature and circumstances of the offense
3 charged; 2) the weight of the evidence against Defendant; 3) Defendant's history
4 and characteristics, including character, physical and mental condition, family ties,
5 employment, financial resources, length of residence in the community,
6 community ties, past conduct and history relating to alcohol and drug abuse, and
7 also criminal history, record concerning appearance at court proceedings, and
8 whether Defendant was under supervision at the time of the alleged offense; and,
9 4) the nature and seriousness of the danger to the community posed by Defendant's
10 release. *See* 18 U.S.C. § 3142(g).

11 The Court finds for the reasons stated in this Order and during the hearing
12 that, based on the unique facts and circumstances of this case, the United States has
13 established by a preponderance of the evidence that no condition or combination of
14 conditions will reasonably assure Defendant's appearance at future proceedings
15 and the United States has established by clear and convincing evidence that no
16 condition or combination of conditions will reasonably assure the safety of other
17 persons or the community if Defendant is released.

18 **IT IS HEREBY ORDERED:**

19
20 1. The United States' Motion for Detention, **ECF No. 9**, is **GRANTED**
21 subject to right to return before the Court should circumstances change. Defendant
22 shall be held in detention pending disposition of this case or until further order of
23 the Court.

24 2. Defendant is committed to the custody of the U.S. Marshal for
25 confinement separate, to the extent practicable, from persons awaiting or serving
26 sentences or being held in custody pending appeal.

27 3. Defendant shall be afforded reasonable opportunity for private
28 consultation with counsel.

1 4. If a party desires this Court to reconsider conditions of release
2 because of material and newly discovered circumstances pursuant to 18 U.S.C.
3 § 3142(f), that party shall file a two-page motion for reconsideration succinctly
4 stating what circumstances are new, how they are established, and the requested
5 change in conditions of release. The motion shall indicate whether opposing
6 counsel or Pretrial Services object, whether a hearing is desired, and whether a
7 supplemental pretrial report is requested. This Court will treat the motion as
8 expedited and submitted without argument and will set a hearing or issue other
9 orders as may be appropriate.

10 5. If a party desires that another Court review this order pursuant to 18
11 U.S.C. § 3145, that party shall promptly file a motion for review before the district
12 judge to whom the case is assigned, as further described in the Detention Order
13 Review Protocol published for the Eastern District of Washington. Both parties
14 shall cooperate to ensure that the motion is promptly determined.

15 **IT IS SO ORDERED.**

16 DATED May 8, 2023.




JAMES A. GOEKE
UNITED STATES MAGISTRATE JUDGE